

of Special Civil Application No 10925 of 95

Date of decision: 16/02/96

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

USMANSHAH AMIRSHAH DIWAN UNARMED CONSTABLE
vs
DSP

Appearance:

MR HARDIK C RAWAL for Petitioner
MR DA BAMBHANIA for Respondent No.1 to 4.

Coram : MR.JUSTICE C.K.THAKKER

ORAL JUDGEMENT

Rule. Mr.D.A.Bambhania appears and waives service of rule on behalf of the Respondents. In the facts and circumstances, the matter is taken up to day for final hearing.

This petition is filed by the petitioner against the order of transfer dt. November 30, 1995 as also the order of suspension dt.. December 14, 1995.

It is the case of the petitioner that he is working as an Unarmed Police Constable. In connection with the incident, said to have taken place in which allegation was made against the petitioner that the petitioner in collusion with one Inayatalla

Ahmadali, an Unarmed Head Constable was involved in a corruption. he was placed under suspension. Before the impugned order of suspension was passed, the petitioner by an order dt. December 4, 1995, was transferred and after about 10 days, the order of suspension was passed.

After notice was issued , the respondents appeared.

Mr.Hardik Raval conceded that the petitioner is willing to accept the order of transfer. Not only that but in due compliance with the said order, the petitioner has reported for duty in Sabarkantha District. He further says that looking to the relevant records, the petitioner cannot be said to be directly or indirectly involved in a corruption case. After looking to the records, Mr.Bambhania, learned counsel for the respondents states that from the report submitted by Dy.S.P. Anand to D.S.P. Anand there does not appear that the petitioner had either taken or accepted any amount from any person. Looking to the statement of Varshaben Jitendra Gohil also it does not appear that the petitioner either demanded or accepted any amount. On the contrary, from her statement, it clearly appears that only one Jamadar had come. Thus, she refers presence of only one Jamadar and that is Inayatali, Unarmed Head Constable.

In view of these facts, in my opinion, so far as the order of suspension is concerned, it could not have been passed by the respondent authorities. Hence, so far as the order of suspension is concerned, it is hereby quashed and set aside. So far as the transfer is concerned, the learned counsel for the petitioner has not pressed that issue. The Rule is, therefore, made absolute to the above extent. No order as to costs.
